

RACHEL LYNN SCHOEN,)	
)	Civil Action No. 18-449
)	
Plaintiff,)	
)	District Judge Cathy Bissoon
v.)	
)	
BOROUGH OF CRAFTON, GREGORY)	
LAEPPLER, TIM HARVISON, BOROUGH		
OF CARNEGIE, JOHN DOE and JANE DOE,		
Defendants.		

On April 4, 2018, Plaintiff Rachel Lynn Schoen (“Plaintiff”) filed a Complaint against the Borough of Crafton, Gregory Laepple, Tim Harvison, Borough of Carnegie, John Doe and Jane Doe (hereinafter “Complaint,” Doc. 1). On April 27, 2018, Defendants Borough of Crafton, Tim Harvison, and Gregory Laepple (hereinafter “Crafton Defendants”) filed a Motion to Dismiss (Doc. 4).¹ On May 21, 2018, Plaintiff filed a Motion to Stay these Proceedings Pending Resolution of Criminal Appeal (Doc. 7). The Court granted this motion on May 23, 2018, and denied Crafton Defendants’ Motion to Dismiss without prejudice.

On April 15, 2019, Plaintiff filed a Motion for Removal of Stay, (Doc. 11), which the Court granted on April 16, 2019, (Doc. 12). Crafton Defendants filed a second Motion to Dismiss, (Doc. 13), on April 30, 2019.² Plaintiff filed a Response to this second Motion on June

¹ The Court notes that Plaintiff did not make any allegations as to defendants Borough of Carnegie, John Doe and Jane Doe. If Plaintiff intends to proceed against any of these defendants, she must include any and all allegations she has with respect to those defendants in her amended complaint.

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4, 2019, (Doc. 18), and did not object to Crafton Defendants' Motion to Dismiss with respect to her Fourteenth Amendment and municipal liability claims. Crafton Defendants filed a Reply on June 7, 2019, (Doc. 19), and Plaintiff requested and was granted leave to file a sur-reply on June 17, 2019, (Docs. 20 and 21).

After consideration of all briefing by the parties, Crafton Defendants' Motion to Dismiss Plaintiff's Complaint, Doc. 1, will be **GRANTED** for the reasons cited therein, which are incorporated here by reference. In light of Plaintiff's briefing, however, it appears that as to her remaining claims, amending the Complaint would not be futile.³ Therefore, the Court will permit Plaintiff to file an Amended Complaint to include facts related to her remaining claims of excessive force and malicious prosecution. This will be Plaintiff's final opportunity to amend her Complaint and, if she is able, she should make her best effort to address the shortcomings identified by Crafton Defendants.

Thus, Plaintiff's Fourteenth Amendment Substantive Due Process Falsification of Evidence allegation against Defendant Laepple is **DISMISSED WITH PREJUDICE** and Plaintiff's municipal liability claims against Crafton Borough are **DISMISSED WITH PREJUDICE**. Plaintiff's Fourth Amendment Excessive Force allegations against Defendants Laepple and Harvison are **DISMISSED WITHOUT PREJUDICE** and Plaintiff's Fourth Amendment Malicious Prosecution allegations against Defendants Laepple and Harvison are **DISMISSED WITHOUT PREJUDICE**. Plaintiff shall file an Amended Complaint by December 2, 2019 or all claims shall be summarily dismissed **WITH PREJUDICE**. Again,

³ The Court notes that throughout the course of the litigation, Plaintiff has never asked leave of the Court to file an amended complaint, and seeking to amend the Complaint in briefing is not the appropriate mechanism by which to do so. *See* Fed. R. Civ. Pro. 15(a)(2).

Plaintiff should engage in her last, best efforts when filing her amended pleading, as the Court does not anticipate granting further leave to amend.

IT IS SO ORDERED.

November 14, 2019

s/Cathy Bissoon
Cathy Bissoon
United States District Judge

cc (via ECF email notification):

All Counsel of Record